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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	
Federal State Joint Board on Universal Service	CC Docket No. 96-45
Forward-Looking Mechanism For High Cost Support	CC Docket No. 97-160

COMMENTS OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel") submits the following in response to the Commission's solicitation of comments on the various proposals for modification of the methodology for calculating high cost universal service support.[1]

I. Background

The concept of universal service has been one of the fundamental goals of the Communications Act since its enactment in 1934. The rewrite of the Act completed in 1996 reaffirmed the national commitment to the universal availability of high quality telecommunications services at affordable rates. Indeed, the basic principle of universal service receives unanimous support throughout the telecommunications industry. Universal service, then, is the telecommunications policy equivalent of motherhood and apple pie.

Real policy differences arise, however, in the process of translating the general national goals into a workable plan which is fair to the many disparate interests which are affected.

[1] Public Notice, DA 98-715, released April 15, 1998 ("*Notice*").

Which services are to be made universally available? What price is affordable? How much financial subsidy should be provided? From whom should it be collected? And how should it be distributed? As the old saying goes, the devil is in the details.

The 1996 Act added Section 254 to the Communications Act. That Section was not premised on a belief that then existing policies were unsuccessful in fostering universal service. In fact, they were quite successful.[2] Rather, the general purpose of Section 254 is to provide for a transition to a new system of universal service which is more compatible with a fully competitive telecommunications industry at all levels. The prior system of implicit subsidies built into interstate access charges and other fees cannot be sustained in the face of a multiplicity of suppliers of local services.

To this end, Section 254 requires that universal service subsidies be made explicit, competitively neutral, and available to any recipient willing to meet the established criteria. As the representative of the new competitive segments of the industry, CompTel enthusiastically supports all of these goals. As to the proposals for change to the Commission's chosen methodology, CompTel offers the following comments.

II. The Commission Should Establish a Single Inter/Intrastate Fund

In the *May 8 Order*[3] the Commission based its high cost support plan solely on interstate rates, leaving to the states the task of creating their own intrastate support mechanisms. The Commission indicated that it will monitor the development of the state funds and work with the Joint Board and the states to develop a unified approach to the high cost support program.

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[2] *See Telephone Subscribership in the United States*, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission (rel. Jan. 21, 1998).

[3] Federal State Joint Board on Universal Service, *Report & Order*, CC Docket No. 96-45, 12 FCC Rcd 8776 (1997) (subsequent history omitted) (*May 8 Order*).

In CompTel's view, a single, unified fund overseen by the FCC would be much more efficient and effective than a federal fund supplemented by 50 intrastate funds. This approach would relieve the states of the burden of devising and administering their own high cost support plans and would make the system much simpler for all concerned.

The *May 8 Order* expressed reservations about the Commission's legal authority to impose a single fund approach on the state commissions. However, a cooperative, jointly devised approach certainly would seem to be within the FCC's legal ability to create and oversee. The willingness of the states to participate voluntarily in such an arrangement is evident in their preparation of a paper through a working group created by the National Association of Regulatory Utility Commissioners ("NARUC"). This paper, entitled "High Cost Support: An Alternative Distribution Proposal" (the "High Cost Report"), was submitted to the FCC on April 27, 1998 by the Ad Hoc Working Group on Funding for High Cost Areas of NARUC. It is one of the proposals subject to comment in this proceeding.

While CompTel supports a joint federal-state effort to devise a single fund, it does not endorse the NARUC High Cost Report. For example, the NARUC plan appears to be inconsistent with the objectives of Section 254 in important ways. In particular, the plan would retain the implicit subsidies in interstate access charges by rescinding the requirement that such charges be reduced by the amount of the new subsidy payments. This change to the Commission's current plan would be harmful to competitive carriers and would be neither competitively neutral nor consistent with making all subsidies explicit.

At a minimum, if a single inter/intrastate fund is not to be adopted, the Commission should work with the states to develop a consistent cost model and revenue benchmark. This will at least ensure that double recovery is avoided and the funds are no larger than is necessary to accomplish their goals.

III. Revenue Benchmark

The Commission's *May 8 Order* adopted a revenue benchmark based on national average revenue per line, including revenues for local, discretionary, interstate and intrastate access services, as well as other telecommunications revenues. The Commission also committed to review the benchmark levels at various future points to reflect the effects of competition.[4]

CompTel supports the revenue benchmark approach and believes that it should not be modified to reflect average *costs* rather than *revenues*, as proposed by some state members of the Joint Board. By keying the support to costs instead of revenues, the FCC would be negating a substantial portion of its reasoning in including discretionary revenues in the calculation. As the *May 8 Order* noted, a cost-based benchmark "does not reflect the revenue already available to a carrier for covering its costs for the supported services." [5] Moreover, CompTel agrees with the Commission's conclusion in the *May 8 Order* that matching the revenue benchmark with national average costs in the course of the calculation will not be unmanageable.[6]

CompTel also believes the benchmark levels should not be reduced in the future to reflect the lower national average revenues that competition in local services will inevitably bring. The principle motivation behind the 1996 Act is to create local competition and, in the process, drive down prices wherever possible. A periodic lowering of the benchmark as competition develops would unnecessarily increase the support payments for some recipients and impair the development of competition in their territories.

4 *May 8 Order* at ¶¶ 257-260.

5 *Id.* at ¶ 266.

6 *Id.*

IV. Geographic De-Averaging and Cost Methodology Should be Identical for both UNE Pricing and Determination of Universal Service Support Costs

The universal service principle of competitive neutrality requires that both incumbent carriers and new entrants receive the same effective subsidy when serving high cost areas. Accordingly, any universal service plan must be based on the same cost methodology and level of geographic de-averaging used to establish unbundled network element ("UNE") prices. If not, then the subsidy available to the new entrant relying on UNEs either would be too large or too small, and hence would not reflect the true cost of providing service to the high cost area. This is so because, regardless of the methodology used to calculate costs, the cost of the network should be the same both when it is used by the incumbent, and leased by the new entrant, to provide service to the customer.

Put simply, the level of universal service support is based on the costs to the carrier of providing universal service, and hence at base on the cost of the network. If the price of network elements purchased by CLECs is estimated with a cost methodology different from that used to calculate ILEC network costs, or is averaged over a different area than are network costs, then the amount of the universal service subsidy available to the new entrant will not be commensurate with the actual cost of providing service. The incumbent, on the other hand, would receive a universal service subsidy that reflects the "true" cost of providing service.

Further, CompTel would note that in the *May 8 Order* the Commission found that forward-looking economic cost ultimately would best approximate the costs that would be incurred by an efficient carrier in the telecommunications market.[7] Consistent with this finding, the Commission determined that the use of a forward-looking economic cost methodology would

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7 *Id.* at ¶ 224.

be the best mechanism for calculating the various levels of universal service support.[8] CompTel supports the Commission's decision to rely on a forward-looking economic cost model. As the Commission explained in the *May 8 Order*, "the use of forward looking economic cost will lead to support mechanisms that will ensure that universal service support corresponds to the cost of providing the services, and thus, will preserve and advance universal service. . . ."[9]

In sum, CompTel would reiterate that the level of geographic de-averaging used to determine high cost support should be identical to the level of geographic de-averaging used to establish network element prices. In addition, the same forward-looking cost analysis should be used to determine the cost of universal service and network element prices. Only with consistent application of geographic de-averaging and cost methodology with regard to the cost of support and pricing of network elements can fair, equitable, and competitively neutral universal support be achieved.

V. Timing for Implementation of High Cost Support

The *Notice* also sought comment on a proposal by AT&T to postpone implementation of the high cost support mechanism for the major ILECs until those companies have opened their markets to widespread local competition. CompTel supports this view. Section 254 makes competitive neutrality one of its primary goals. Until the ILECs actually have taken the steps necessary to open their markets to local competition, it will be impossible to measure the competitive neutrality of the Commission's high cost support approach. Thus, a threshold criteria like that suggested by AT&T would enable the Commission to ascertain that its high cost

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8 *Id.* at ¶ 226.

9 *Id.* at ¶ 225.

support methodology is consistent with all the goals of Section 254.

CONCLUSION

Overall, the FCC should ensure that universal service requirements are adequate to further the goals of Section 254, but are no larger than necessary for that purpose. At the same time, the Commission should be vigilant against any aspect of the plan that is not competitively neutral or which continues implicit subsidies.

Respectfully submitted,

THE COMPETITIVE
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May 15, 1998

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